

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

HCP.No.3085/2015

Jayalakshmi

..Petitioner

Vs

1.State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.

2.The Commissioner of Police/Detaining Authority
O/o Commissioner of Police
Commissioner City
Coimbatore District.

3.The Addl.Secretary
Government of India
Ministry of Consumer Affairs
Food and Public Distribution
(Dept. of Consumer Affairs)
Room No.270, Krishi Bhawan
New Delhi 110 001.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records, relating to the petitioner's husband detention under Section 3(1) r/w 3(2)(b) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980 (Central Act 7 of 1980), vide detention order, dated 19.11.2015 on the file of the second respondent herein made in proceedings Memo C.No.16/PBMMSEC Act/IS/2015, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely R.Suresh, S/o Rajan aged 32 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner : Mr.Dalit Tiger Ponnusamy

For Respondents: Mr.A.N.Thambidurai
Addl.Public Prosecutor
for RR1 and 2

Mr.S.Arockiam,
CGSC for R3

ORDER

[Order of the court was delivered by S.NAGAMUTHU, J.]

The Petitioner, who is the wife of the detenu, viz., R.Suresh, Son of Rajan, aged 32 years, has filed this petition challenging the order of detention passed by the 2nd respondent in Memo C.No.16/PBMMSEC Act/IS/2015 dated 19.11.2015, branding her husband as a "BLACK MARKETER" under Section 3[1] r/w 3[2][b] of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 [Central Act 7 of 1980].

2. Even though the learned counsel for the petitioner raised many grounds in assailing the impugned order of detention in the petition, he focused his argument on the ground that in Cr.No.213 of 2015, the bail applications filed by the detenu were dismissed by the learned Magistrates concerned and thereafter, no fresh application was filed by him seeking bail. When that be so, the satisfaction arrived at by the detaining authority, that there is likelihood of the detenu coming out on bail is absolutely baseless.

3. We have considered the above submissions.

4. As rightly pointed out by the learned counsel for the petitioner, from paragraph 5 of the detention order, it is crystal clear that the detenu had not filed any application seeking bail, after dismissal of the earlier applications. When that be so, it is not explained to the Court as to how the detaining authority has come to the conclusion that there was real possibility of the detenu coming out on bail. This shows the predetermined mind of the detaining authority. In such view of the matter, the detention order is liable to be quashed.

5. Accordingly, the habeas corpus petition is allowed and the detention order dated 19.11.2015, passed by the 2nd respondent is quashed. The detenu is directed to be set at liberty, forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Secretary to Government, Government of Tamil Nadu,
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009.

2.The Commissioner of Police/Detaining Authority
O/o Commissioner of Police
Commissioner City, Coimbatore District.

3.The Addl.Secretary
Government of India, Ministry of Consumer Affairs
Food and Public Distribution
(Dept. of Consumer Affairs)
Room No.270, Krishi Bhawan
New Delhi 110 001.

4.The Superintendent of Central Prison
Coimbatore.

4. The Joint Secretary to Government Public
(Law & order), Fort St. George, Chennai. 600 009.

6.The Public Prosecutor, High Court, Chennai.

HCP.No.3085/2015

SKV(CO)
EU 27.4.16